A RESOLUTION BY FINANCE/EXECUTIVE COMMITTEE

A RESOLUTION AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ISSUE A REFUND TO CAREY-EXECUTIVE LIMOUSINE COMPANY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND THREE HUNDRED FIVE DOLLARS AND SIXTEEN CENTS (\$5,305.16) FOR AN OVERPAYMENT OF BUSINESS LICENSE FEES; ALL FUNDS SHALL BE CHARGED TO AND PAID FROM FDOA 1001(General Fund) 200301 (NDP Unallocated –Citywide Employee Expenses) 5730012 (Account Refunds) 154000 (Function Activity Human Resources); AND FOR OTHER PURPOSES.

WHEREAS, Carey-Executive Limousine Company has requested a refund in the amount of Five Thousand Three Hundred Five Dollars and Sixteen Cents (\$5,305.16) for an overpayment of business license fees in 2008; and

WHEREAS, Carey-Executive Limousine Company has submitted supporting documents to the Office of Revenue to substantiate its claim; and

WHEREAS, the Office of Revenue investigated the claim and has determined that Carey-Executive Limousine is entitled to a refund in an amount not to exceed Five Thousand Three Hundred Five Dollars and Sixteen Cents (\$5,305.16).

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Chief Financial Officer is hereby directed to issue a refund to Carey-Executive Limousine Company in an amount not to exceed Five Thousand Three Hundred Five Dollars and Sixteen Cents (\$5,305.16) for overpayment of business license fees to the City of Atlanta in 2008.

BE IT FURTHER RESOLVED, that said refund shall be charged to and paid from FDOA 1001(General Fund) 200301 (NDP Unallocated –Citywide Employee Expenses) 5730012 (Account Refunds) 154000 (Function Activity Human Resources).

<u>Part II: Legislative White Paper:</u> (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To	be completed by Legislative Counsel:
Comr	mittee of Purview:
Capti	
Coun	cil Meeting Date:
Requ	esting Dept.:
B. To b	pe completed by the department :
1. Plea	ase provide a summary of the purpose of this legislation (Justification Statement).
	le: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase afety seats.
	rpose of this legislation is to refund overpayment payment of ss License Fees .
2. Plea	ase provide background information regarding this legislation.
consec	le: The task force of homelessness conducted a study regarding homelessness, its impact and quences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center II respond to the needs of the homelessness in Atlanta.
their 20 calenda exempt	arey-Executive Limousine Company, located at 245 University Avenue, SW, Atlanta, GA. 30314, remitted 108 calender year business license fees in the amount of \$5,305.16 to the City of Atlanta for the 2008 ar year, thereafter the State of Georgia legislature amended laws with enactment of Georgia HB 384 ting all limousine carriers from paying occupational tax to muncipalities and or county government agencies e May 2008 placing them under the umbrella of the Georgia Public Service Commission.
3. <u>If Ar</u>	oplicable/Known:
(a)	Contract Type (e.g. Professional Services, Construction Agreement, etc):
(b)	Source Selection:
(c)	Bids/Proposals Due:

(d)

Invitations Issued:

(e)	Number of Bids:	
(f)	Proposals Received:	
(g)	Bidders/Proponents:	
(h)	Term of Contract:	
4. Fun	d Account Center:	
5. Sou	rce of Funds: Example: Local Assistance Grant	
(Gener	cal Impact: The legistlation will result in a reduction in the amount of al fund), 200301 (NDP Unallocated-Citywide Employee Expenses) 57 (Function Activity Human Resources).	
	ole: This legislation will result in a reduction in the amount of Number	to Fund Account
7. Met	hod of Cost Recovery: N/A	
Examp	eles:	
	- Devenues consisted from the normite required under this l	anialation will be used to

- a. Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.
- b. Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.

This Legislative Request Form Was Prepared By: Jerome Bodiford, Finance Department x6431, submitteed by LaShawn Gardiner, x6449

	KEFUNL) KEQUESI A	IFRUVAL	
Date April 22, 2009	Э	Acco	ount # 028446LGB	
Business Name Care	y Executive Lim	ousine		
Requested Refund A	mount	<u>\$ 5,305.16</u>		
Mailing Address	245 University	y Avenue, SW		
	Atlanta, GA 30	0314		
SSN/FEIN 58-19	07575	20		,
Confirmed By	Jerome Bodifo	ord 5	(Initials)	
Date	April 22 2009			
from paying occupati	onal tax to mur Seorgia Public S	nicipal governments	ay, 2008 exempts all limousine and places the limousine carrie This request covers payments	ers unde
Approved By	\$5,305.16 Drome Bod	Buys	Gary Donaldson	
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Office of Revenue Rep		······································	Date	
Disbursement Numbe	· · · · · · · · · · · · · · · · · · ·		Date	
Completed, Copied &	Filed			

Copies Available Upon Request Only

REQUEST FOR REFUND

Date April 22, 2009

Account # 028446 LGB

To:

Jerome Bodiford, Business Tax Manager

(Approval Initials

From: Customer Service

Business Name

Carey Executive Limousine

Business Location

245 University Avenue, SW

Atlanta, Georgia 30314

Mailing Address

245 University Avenue, SW

Atlanta, GA 30314

Telephone Number

404-223-2000

Contact Person

Dennis R. Deloatch

Reason for Request Enactment of HB 384 effective May, 2008 exempts all limousine carriers from paying occupational tax to municipal governments and places all limousine carriers under the umbrella of the Georgia Public Service Commission. This Request covers payments remitted for the 2008 calendar year only.

Carey Executive Limousine request a Refund

Refund Amount

\$5305.16

Federal Tax ID#

58-1907575

Make Disbursement Payable to

Carey Executive Limousine

245 University Avenue, SW Atlanta, GA. 30314

Submitted by:

Date

Approved by

Date

rh 9-26-08



Driving Success. Delivering Experience.

245 University Avenue, S.W. Atlanta, Georgia 30314

February 23, 2009

Mr. Willie Johnson
Business License Investigation Supervisor
City of Atlanta Business Tax Division
55 Trinity Avenue, SW
Suite 1350
Atlanta, GA 30303

Dear Mr. Johnson:

It has come to our attention that our company has filed business license applications and paid license fees for prior years for which we should not have paid business license fees pursuant to Georgia Code under Title 46, Chapter 7, Article 1.

O.C.G.A. Section 46-7-15 provides that cities shall not levy license fees of any nature on a motor carrier who has secured a registration permit from the state revenue commissioner. A copy of this code section is attached for your review.

Please note Carey-Executive Limousine has secured the appropriate permit for all years in question (see attached) and is therefore exempt from the paying business license fees to the City of Atlanta. Based on our understanding of the Georgia Code and discussions with Mr. Jerome Bodiford in the Business Tax Division, we hereby respectfully request the refund of \$15,4363.29 related to the license fees paid as follows:

For the year 2008 \$ 5,305.16

For the year 2008 \$ 5,305.16

If you have any questions or require any further information, please do not hesitate to contact me.

Very truly yours,

Dennis R. DeLoatch General Manager

amil De Later

cc: Jerome Bodiford

To: Jerome Bodiford

Business Tax Manager

From: Tressa Marryshow

Associate City Attorney

Re: City of Atlanta Occupational Tax and Limousine Carrier Service Exemption

Date: April 14, 2009

ISSUE

In May of 2008 the Georgia General Assembly passed Senate Bill 384 which amends Article 3 of Chapter 7 of Title 46 of the Georgia State Code relating to limousine carriers. This amendment deletes the authorization which allows municipalities to require Limousine carriers to obtain an annual business license and places the Limousine Carriers under the umbrella of the Georgia Public Service Commission. The Office of Revenue has sought a legal opinion as to whether limousine carriers are entitled to refund of business taxes paid prior to passage of SB 384 in May 2008.

RULE OF LAW

The issue stated above is controlled by Senate Bill 384 and reads as follows:

AS PASSED, AN ACT, To amend Article 3 of Chapter 7 of Title 46 of the Official Code of Georgia Annotated, relating to limousine carriers, so as to change certain provisions relating to the permitting of limousine carriers by certain airports; to limit fees for such permitting; to provide that a chauffer's permit and a certificate issued to the limousine carrier shall be adequate evidence of sufficient criminal background investigations; to delete a provision allowing cities and counties to enact ordinances requiring certain limousine carriers to pay business license fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA SECTION 1.

Article 3 of Chapter 7 of Title 46 of the Official Code of Georgia Annotated, relating to limousine carriers, is amended by revising Code Section 46-7-85.11, relating to preemption of regulation of limousine carriers by general law, as follows:

"46-7-85.11.

The State of Georgia fully occupies and preempts the entire field of regulation over limousine carriers as regulated by this article; provided, however, that the governing authority of any country or municipal airport shall be authorized to permit any limousine carrier doing business at any such airport

and may establish fees as part of such permitting process; provided, further, that such fees shall not exceed the airport's approximate cost of permitting and regulating limousine carriers; and provided, further, that such governing authorities of such airports shall accept a chauffer's permit issued by the Department of Driver Services to the driver and evidence of a certificate issued to the limousine carrier by the Public Service Commission as adequate evidence of sufficient criminal background investigation. The list of licensed limousine carriers on the website of the Public Service Commission shall be sufficient evidence that a limousine carrier has a certificate issued by the Public Service Commission."

<u>APPLICATION</u>

The language in the above bill sets forth the provision and rights to be eliminated by the enactment of SB 384. The bill is absent any language creating ambiguity, or liberal language making the new provision retroactive. A strict interpretation of the Bill determines that cities and counties were allowed to enact ordinances requiring certain limousine carriers to pay business license fees prior to enactment of the Bill. As written, the Bill makes no retroactive stipulations. If the legislature had intended that effect, it certainly could have stated so.

As of May 2008, cities and counties in the State of Georgia are prohibited from imposing occupational taxes on limousine carriers. All limousine carriers who paid taxes for the tax year 2008 are entitled to refunds of taxes paid for May 2008 going forward. Limousine carriers are to follow the guidelines for applying for tax refunds found in Atlanta Code of Ordinances § 30. Senate Bill 384 contains no retroactive or "reach back" clauses that would permit limousine carriers to ascribe this new provision to previous tax years.

CONCLUSION

The Office of Revenue should refund tax payments made by limousine carriers in accordance with Atlanta Code of Ordinances § 30 for the period of May 2008 and going forward. Limousine carriers operating in the City of Atlanta are not entitled to application of Senate Bill 384 to tax years previous to the date of enactment, May 2008. The City of Atlanta is not obligated to apply Senate Bill 384 to tax years previous to the date of enactment, May 2008.

AUDIT RECOMMENDATION:	ā	RIISINESS TAX BETIIBN	AX DETI	, Na	Service and the service and th	NIN DUY DE 671 ANTA 100 COM	A TOR ONE ON	The plan Company of control of the Control of the summary of the control of the c
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CITY OF ATLANTA

Check Number: 8684

Check Date:

Mar 7, 2008

Check Amount:

\$5,305.16

Item to be Paid - Description

Discount Taken

Amount Paid

Acct 028446LGB

5,305.16

028446004

PALM60 MULTI-PURPOSE CHECK (9/03) OCReady

PTR010 (9/07) 55,5288

City of Attenta

CITY HALL SOUTH 55 TRIBITY AVE. S.W., ATLANTA, CA. 3000S

DATE PAID

endersing devision ACCOUNT NO. 028446LGB

BILLING DATE

CK. NO. 05/20/2008

BUSINESS LOCATION 245 UNIVERSITY AV SW

GENERAL BUSINESS LICENSE BILL

PRIOR BALANCE	584.46		
- PAYMENTS	584.46	REPORTING PERIOD	5008-07-07
+ LICENSE FEE	4,992.02	GROSS REVENUE	5,435, 896.00
+ ANNUAL ADMN	75.00	NO. OF EMPLOYEES	ES
+ *PRIOR YR ADJ	P1.8E5	CLASSIFICATION	3
+ PENALTY/FIFA	.00		
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BALANCE DUE

RENEWAL BILL *ADJUSTMENTS ARE BASED ON THE DIFFERENCE IN YOUR 3 7 68 CE+ P684

PROJECTED REVENUE AND THE ACTUAL REVENUE.

49900100028446004500005305166

PLEASE DU NOT WHITE ON BILL TO MAKE CHANGES PLEASE SEND ADDITIONAL CORRESPONDENCE. KEEP THIS PORTION FOR YOUR RECORDS



5,305.16 AND NO. OF EMPLOYEES.



CITY OF ATLANTA BUSINESS TAX DIVISION

RENEWAL FORM FOR THE YEAR 2008
55 Trinity Avenue, SW Suite 1350 Atlanta, Georgia 30303
Office (404) 330-6270 • www.atlantaga.gov

A \$500 PEN SETY WHICE EASSESSED FOR FAILURE TO FILL RENEWAL BY FEBRUARY 15					
CAREY-EXECUTIVE LIMOUSINE (1) DBA/TRADE NAME:		Class SIC Code 4120			
(2) Corporation LLC Sole Proprietor Partnership Other	Business Telephone: () 낙이다	3-3-2000			
(3) Location: 245 UNIVERSITY AV SW ATLANTA, GA 30315		575 State Tax ID: 575 1122690-FF			
CAREY-EXECUTIVE LIMOUSINE 245 University Ave SW Atlanta, GA 30315-2124	Transportatio: Corporate Address: 245 Atla: Corporate Telephone: 404	University Ave. S W nta, Ga. 30315			
	(5) Business E-Mail:				
OWNER/MANAGER IS RESPONSIBLE FOR REPORTING A	del changesto vo	UR BUSINESS*			
(6) RENEWAL FINAL: SOLD CLOSED	CHANGES (COMPLETE	LINE 9)			
If you are renewing and there are <u>no changes</u> , please check the <u>renewal box</u> (<u>number of employees (line 7)</u> , <u>sign and date the form (line 14)</u> and return in er number of employees blank. If no gross revenue earned, then indicate \$0. Or must report Atlanta revenue only. All businesses are subject to Audit. Pursu must attach a copy of prior year applicable tax return (IRS forms 1120, 1065)	iclosed envelope. Do no it of state businesses wi ant to City Ordinance (t leave gross revenue or th no Georgia location Chapter 30-85, businesses			
(7) IF RENEWAL PRIOR YEAR ACTUAL GROSS REVENUE: \$ 5,435,8	***************************************	NUMBER OF EMPLOYEES:			
(8) IF FINAL/CLOSED, ENTER ACTUAL GROSS REVENUE AND EMPLOYEES HERE: DATE SOLD/CLOSED:					
GROSS REVENUE NUMBER OF EMPLOYEES					
(9) CHANGES: Please list any changes to business name, location, mailing address and telephone number. PLEASE DISTPRINCIPAL OFFICERS OF BUSINESS					
(10) Name Herbert M. Dangerfield Rd NW Atl. Ga. 30327	404 846-8182	\$\$\frac{\$5}{250-64-3466}			
(11) Name. Address Title Phone		55#			
(12) Name Address Title Phone		\$\$#			
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BUSINESS LICENSE INFORMATION SYSTEM DATE: 04/23/09

BILLING

TIME: 11:27:01

BILL/ACCOUNT SUMMARY INQUIRY

LICENSE/TAX NO.: 028446 LGB BUSINESS NAME: CAREY-EXECUTIVE LIMOUSINE

ACCOUNT STATUS: X C START DATE: 1993-04-30 END DATE:

OCATION ADDRESS: 245 UNIVERSITY

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1=HELP 2= 3=PREV SCRN 4=COMP FRWD 5=COMP BKWD 6=MEMO LOG 7=BILL FRWD 8=BILL BKWD 9=DSPLY BILL 10=REMT FRWD 11=REMT Bkwd 12=PREV MENU

PHONE:

BLA188

ACCOUNT INFORMATION INQUIRY 04/23/09 11:27:50

IC/TAX NO.: 028446 LGB BUSINESS NAME: CAREY-EXECUTIVE LIMOUSINE

CCT STATUS: X C NONP: NO TYPE/FEI/STI: CORPORATE

RIMARY SIC: 4120 LIMOUSINE SERVICE 3 START DATE: 1993-04-30 IC ISSUED: 2008-03-10 PRG WKBAL: \$0.00 END DATE:

VALID FROM: 2008-01-01 TO 2008-12-31 PRINTED: 2008-03-10 CREATED: 1993-04-30

OC ADDRESS: 245 UNIVERSITY AV SW ATLANTA GA 30315

LOCAT PHONE: 404 223-3000 AMNESTY: LOC IN OUT: I EMERGENCY PHONE

MERGENCY CONTACT:

EMAIL:

AIL ADDRSS: 245 UNIVERSITY AV SW ATLANTA GA 30315

MAIL ATTN:

PIN: 247734 ACCT PHONE: 404 223-3000 AME OF LOC:

DATE RETURNED: ETURN MAIL:

AGENT NAME:

ADDRESS:

PHONE: ORPORATION: EXECUTIVE LIMOUSINE TRANSP INC

INC AV SW ATLANTA GA 30315 ADDRESS: 245 UNIVERSITY

RECORD SUCCESSFULLY FOUND

3=PRV SCRN 4=DBA 5=PERMITS 1=HELP 2=SIC CODES

7=ADJUSTMENT 8=PRINCIPAL 9=BILL SUMMARY 12=PRV MENU

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE	ATTN: GREG PRIDGEON
Dept.'s Legislative Liaison: LaShawn Gardiner	
Contact Number: (404) 330-6449	
Originating Department: <u>Department of Finance</u>	
Committee(s) of Purview: FINANCE/EXECUTIVE COMM	ITTEE
Chief of Staff Deadline: 5/26/2009	
Anticipated Committee Meeting Date(s): JUNE 9-10, 2009	
Anticipated Full Council Date: JUNE 15, 2009	
Legislative Counsel's Signature: Jack Tilson	
Commissioner Signature:	
Chief Procurement Officer Signature:	
CAPTION	
A RESOLUTION AUTHORIZING THE CHIEF FINANCIA REFUND TO CAREY-EXECUTIVE LIMOUSINE COMPA EXCEED FIVE THOUSAND THREE HUNDRED FIVE DO CENTS (\$5,305.16) FOR AN OVERPAYMENT OF BUSINE FUNDS SHALL BE CHARGED TO AND PAID FROM FDO (NDP Unallocated –Citywide Employee Expenses) 5730012 (A (Function Activity Human Resources); AND FOR OTHER F	ANY IN AN AMOUNT NOT TO OLLARS AND SIXTEEN CSS LICENSE FEES; ALL DA 1001(General Fund) 200301 Account Refunds) 154000
FINANCIAL IMPACT (if any):	
Mayor's Staff Only	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
Received by CPO: Received by LC from CPO (date) - 1 0 (10 0)	O:
Received by Mayor's Office: 5/7/109 / Reviewed by:	70
Submitted to Council: (date) (date) (date)	